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FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE

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EX-100-111111

October 6, 1999

VIA HAND DELIVERY

Mr. David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

Re: *Petition of Gasco Distribution Systems, Inc. for Approval of Special Contract*
Docket No. 99- 00778

Dear David:

Attached for filing is a petition by Gasco Distribution Systems, Inc. ("Gasco") for approval of a special contract, pursuant to TRA Rule 1220-4-1-.07, between Gasco and a large industrial customer. A copy of the contract is attached.

Gasco asks that this matter, which the company believes is unopposed, be placed on the TRA's October 26, 1999 agenda.

Sincerely,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:



Henry Walker

HW/nl

Attachments

cc: Fred Steele (w/attachments)

Michael Klein (w/attachments)

Vincent Williams (w/attachments)

FILE

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

**IN RE: PETITION OF GASCO DISTRIBUTION SYSTEMS, INC. FOR APPROVAL
 OF SPECIAL CONTRACT**

Docket No. 99- 00778

**PETITION OF GASCO DISTRIBUTION SYSTEMS, INC.
FOR APPROVAL OF SPECIAL CONTRACT**

Gasco Distribution Systems, Inc. ("Gasco") petitions the Tennessee Regulatory Authority ("TRA") for approval, pursuant to TRA Rule 1220-4-1-.07,¹ of a contract to supply gas to a wood drying kiln facility owned by the Estate of Bruno Gernt, Inc. ("Gernt"). A copy of the contract is attached.

Gasco presently has approximately 250 small customers, both residential and commercial and one large, industrial customer, Hutchinson Byrdstown Limited Partnership ("Hutchinson"). The Authority has previously approved a special contract for Hutchinson. See "Order Approving Special Contract" in Docket 97-07468, July 6, 1998. Like the Hutchinson contract, the Gernt contract requires the customer to pay for the cost of extending Gasco's system (see "Exhibit A" of the Gernt contract) and provides for a fluctuating gas rate based on market conditions. See "Article V, Contract Price."

Each month, Gernt will nominate a quantity of gas for sale and delivery by Gasco. Should Gernt fail to purchase the full quantity of gas scheduled for delivery on any given day, Gernt

¹ The TRA rule states, "Special contracts between public utilities and certain customers prescribing rates, services, and practices not covered or permitted in the general tariffs . . . are subject to supervision, regulation, and control by the Authority. A copy of such special agreements shall be filed, subject to review and approval."

FILE

must pay Gasco liquidated damages of \$0.524 per MMBtu of untaken gas plus the reservation charge components of the gas sales service from upstream pipelines. This is identical to the damages provision approved by the TRA in the Hutchinson contract.

For these reasons, Gasco asks that the TRA approve this special contract pursuant to TRA Rule 1220-4-1-.07.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'H Walker', is written over a horizontal line.

Henry Walker
Boult, Cummings, Conners & Berry, PLC
414 Union Street, Suite 1600
P. O. Box 198062
Nashville, Tennessee 37219

Counsel for Gasco Distribution Systems, Inc.

GAS SERVICE AGREEMENT

THIS GAS SERVICES AGREEMENT ("Agreement"), entered into this 22 day of July, 1999 by and between GASCO DISTRIBUTION SYSTEMS, INC., an Ohio corporation ("Gasco"), and ESTATE OF BRUNO GERNT, INC. ("Buyer"),

WITNESSETH:

THAT WHEREAS, Buyer is constructing a wood drying kiln facility (the "Plant") in Fentress County, Tennessee ("Fentress County"), for which Buyer will require a reliable supply of natural gas; and

WHEREAS, Gasco is a gas distribution utility whose Tennessee division is subject to the regulatory jurisdiction of the Tennessee Regulatory Authority ("TRA"), and is willing to provide natural gas services in Fentress County; and

WHEREAS, Gasco is willing to provide a reliable supply of natural gas service to the Plant, on the terms and conditions hereinafter set forth; and

WHEREAS, Buyer desires to have Gasco provide its natural gas requirements for the Plant on the terms and conditions hereinafter set forth;

THEREFORE; for and in consideration of the mutual promises and agreements hereinafter set forth, the receipt and sufficiency of which is acknowledged by each of Gasco and Buyer, and intending to be legally bound, Gasco and Buyer agree as follows:

ARTICLE I **DEFINITIONS**

Section 1.1 Defined Terms. For purposes of this Agreement, except where another meaning is expressly stated, the following capitalized words and phrases shall have the following meanings:

"Btu" means one (1) British thermal unit, the quantity of heat required to raise the temperature of one (1) pound avoirdupois of pure water from fifty-eight and five-eighths degrees Fahrenheit (58.5 F) to fifty-nine and five-tenths degrees Fahrenheit (59.5 F) at a constant pressure of fourteen and seventy-three hundredths pounds per square inch absolute (14.73 psia) as defined in the Gasco Tariff.

"Business Day" means a day that is not a legal or bank holiday in the State of Tennessee.

"Buyer" means Estate of Bruno Gernt, Inc., a Tennessee corporation.

"Contract Price" means the price payable by Buyer to Gasco for Sales Service under this Agreement.

"Contract Year" shall mean a twelve Month period beginning on the commencement date of the Primary Sales Term, as provided for in Section 4.2, or on each anniversary of such date during the Term; provided that the last Contract Year shall end on the eleventh anniversary of the In-Service Date.

"Day" means a gas day as such term is used in the Gasco Tariff, i.e., a twenty-four (24) hour period commencing at 8:00 A.M. in the Eastern Time Zone on any day and ending at 8:00 A.M. in the Eastern Time Zone of the following day.

"Gas" means natural gas that meets the quality specifications and pressure requirements of the Gasco Tariff or is accepted by Gasco into its pipeline system for transportation without penalty.

"Gasco" has the meaning set out above.

"Gasco Tariff" means Gasco's tariff approved by the TRA and in effect from time to time during the term of this Agreement.

"In-Service Date" means the later of August 1, 1999, or the date on which the Gasco Line is ready to deliver Gas to the Plant.

"Interest Rate" means the rate first published as the "Prime Rate" under "Money Rates" in the Wall Street Journal during each Month for which interest is being calculated plus one percent (1%), but in no event greater than the maximum rate allowed by applicable law.

"Mcf" means one thousand cubic feet of Gas.

"MDQ" means the maximum daily quantity of Gas which Gasco agrees to sell and/or deliver to Buyer at the Plant on a firm basis, determined in accordance with Sections 3.1 and 4.2 hereof.

"MMBtu" means one (1) million British thermal units.

"MMQ" means maximum monthly quantity, which is the MDQ multiplied by the number of days in a particular billing month.

"Month" means the period beginning at 8:00 A.M. in the Eastern Time Zone on the first day of a calendar month and ending at 8:00 A.M. in the Eastern Time Zone on the first day of the following calendar month.

"Monthly Schedule" means a schedule of Buyer's anticipated Gas requirements for each

Day of the Month provided to Gasco pursuant to Section 3.3 hereof.

"Nomination" means Buyer's notice to Gasco (including without limitation a Monthly Schedule) of the daily quantity of Gas that Buyer requests that Gasco sell and deliver to Buyer at the Plant, during the Primary Sales Term or any Secondary Sales Term on any Day or for any other period of time specified in such Nomination, and to "Nominate" means the giving of such notice to Gasco by Buyer.

"Party" means Gasco or Buyer, according to the context, and "Parties" means both Gasco and Buyer.

"Fentress County" has the meaning set forth above.

"Plant" has the meaning set forth above.

"Primary Sales Term" has the meaning set out in Section 4.2.

"Sales Service" means the sale and delivery by Gasco at the Plant of the Gas required by Buyer for the Plant in accordance with this Agreement.

"Sales Term" means that portion of the term of this Agreement during which Gasco is obligated to sell and deliver Gas to Buyer at the Plant, and during which Buyer is obligated to purchase and receive from Gasco its requirements for Gas at the Plant.

"Secondary Sales Term" has the meaning set out in Section 4.2.

"Schedule" means the notification from Gasco to upstream pipelines and gas suppliers of the quantity of Gas to be transported for the account of Gasco or Buyer, as the case may be.

"Term" means the period of time during which this Agreement shall be in effect as provided for in Section 4.1.

"TRA" has the meaning set forth above and includes any agency or body of the State of Tennessee that is the successor to the TRA.

Section 1.2 Usage. The words "hereof", "hereunder" and words of similar import when used in this Agreement refer to this Agreement as a whole and not to any particular provision hereof, and the words, "Article", "Section", "Exhibit" and similar references followed by a number and/or letter designation refer to such portions of this Agreement unless otherwise specified. Each Exhibit attached hereto is made a part hereof for all purposes. Unless otherwise defined or required by the context in which used, words or phrases defined in Section 1.1 shall have such defined meanings when used in each notice or other communication delivered or given from time to time in connection with this Agreement.

ARTICLE II

CONDITIONS TO GASCO'S OBLIGATIONS

Section 2.1 Conditions. The obligations of Gasco to Buyer under this Agreement are expressly subject to and contingent upon the approval of this Agreement by a final and non-appealable order of TRA.

Section 2.2 Satisfaction of Conditions. Gasco shall proceed with commercially reasonable diligence to satisfy the condition set out in Section 2.1, and shall keep Buyer informed as to Gasco's progress with respect to satisfying such condition. Buyer agrees, at Buyer's sole cost and expense, to cooperate fully with Gasco in its efforts to satisfy such condition.

Section 2.3 Non-Satisfaction of Conditions. In the event that the condition set out in Section 2.1 is not satisfied within 120 days after a filing this agreement with the TRA, either Party may by written notice to the other within ten (10) days thereafter cancel this Agreement. Failure to provide such notice of cancellation shall be deemed a waiver of any of such condition that remains unsatisfied on November 30, 1999.

ARTICLE III

SALE AND PURCHASE OF GAS

Section 3.1 Maximum Daily Quantity. The MDQ for the first Twelve (12) Months of the Primary Sales Term shall be eighty (80) MMBtu, unless otherwise mutually agreed by Gasco and Buyer.

Section 3.2 Gasco's Obligation to Sell and Deliver Gas. On each Day during the Primary Sales Term and any Secondary Sales Term of this Agreement, Gasco shall sell and deliver to Buyer at the outlet side of the Plant meter the quantity of Gas Nominated by Buyer for delivery on such Day, provided, however, that Gasco shall not be obligated to make available to Buyer on any Day a quantity of Gas greater than the MDQ for such Day. Gasco shall perform its obligation to sell and deliver Gas to Buyer pursuant to the following:

(a) Upon receipt of the Monthly Schedule for each Month, Gasco shall promptly Schedule with Gasco's Transporter the delivery to Gasco of the quantity of Gas specified by the Monthly Schedule for each Day of such Month.

(b) Gasco shall promptly after receipt of confirmation of the quantity of Gas that Gasco's Transporter have confirmed as Scheduled for delivery to Gasco for sale and delivery to Buyer during a Month, notify Buyer by Facsimile of such Scheduled quantities.

(c) If subsequent to its submission to Gasco of the Monthly Schedule for any Month, Buyer Nominates in accordance with Section 3.3 (a) a quantity of Gas for sale and

delivery to it by Gasco for any Day or Days during such Month that is different from the quantity called for on such Day or Days by the Monthly Schedule, Gasco shall promptly Schedule such quantity with Gasco's Transporter in accordance with their respective tariffs and notify Buyer by Facsimile of the quantity confirmed by Gasco's Transporter for the Day or Days covered by such changed Nomination.

(d) The provisions of (a) through (c) above notwithstanding, Gasco shall not be liable to Buyer for failure to sell and deliver any quantity of Gas requested by Buyer (i) that is different from the quantity for such Day under the applicable Monthly Schedule and for which Buyer's Nomination is made to Gasco after the time for Nominations for such Day under the tariff of Gasco's Transporter, as applicable, or (ii) exceeds the MDQ, except to the extent agreed to by Gasco by Facsimile notice to Buyer.

Section 3.3 Buyer's Obligation to Purchase, Receive and Pay for Gas. Buyer shall be obligated to purchase and receive from Gasco and pay for at the Contract Price all Gas Service required for the Plant in accordance with this Agreement. Buyer shall Nominate the quantities of Gas it requires for the Plant on each Day in accordance with the following:

(a) On or before five (5) Business Days prior to the first Day of the Primary Sales Term, Buyer will provide Gasco with the Monthly Schedule for the first Month of the Primary Sales Term. Thereafter, on or before five (5) Business Days before the first Day of each Month, Buyer will provide Gasco with the Monthly Schedule for such Month.

(b) Buyer may increase or decrease the quantity of Gas Nominated for any Day or Days of a Month pursuant to the Monthly Schedule for such Month, other than the quantity of Gas initially specified in the Monthly Schedule for the In-Service Date or the first Day of such Month, by Nomination to Gasco not less than twenty-four (24) hours prior to the Day on which such changed Nomination is to be effective. If Buyer Nominates a change in quantity of Gas for any Day or Days less than twenty-four (24) hours prior to such Day or Days, Gasco will exert commercially reasonable efforts to sell and deliver the Nominated quantity, but Gasco shall not be obligated to sell and deliver to Buyer any quantity of Gas in excess of the MDQ quantity.

Section 3.4 Failure to Deliver Nominated Quantities:

(a) If Gasco fails to deliver to Buyer its natural gas requirements up to the MDQ for more than sixty (60) consecutive days due to the failure of a transporter to deliver the gas then Buyer shall have the right to terminate this Agreement by written notice to Gasco.

Section 3.5 Failure to Take Scheduled Quantities of Gas. In the event of Buyer's unexcused failure to take the full quantity of Gas Scheduled for delivery on any Day or Days, Buyer shall pay Gasco, as Gasco's sole remedy therefor, liquidated damages equal to (i) the product of (A) the difference between the quantity of Gas actually taken by Buyer and the Scheduled quantity and (B) \$0.525, and (ii) the Reservation Charge components of the gas

sales service from upstream pipelines.

Section 3.6 Exclusive Remedy. The Parties agree that the actual losses incurred by Buyer as a result of Gasco's failure to deliver quantities would be uncertain and impossible to determine with precision. As a result, the right of Buyer to terminate this Agreement in accordance with Section 3.4 shall be the sole and exclusive remedy, for Gasco's failure to deliver the quantities set forth in this Article and shall also be deemed as reasonable compensation for such failures.

ARTICLE IV **TERM**

Section 4.1 Term of Agreement. This Agreement shall become effective upon its execution by the Parties and shall continue for a Term of three (3) years from and after the In-Service Date, unless sooner terminated pursuant to some other provision hereof.

Section 4.2 Sales Term. The Primary Sales Term shall commence on the first day of the Month following the Month in which the In-Service Date occurs and extend for three (3) Contract Years. The Sales Term of this Agreement shall be extendable for additional Contract Years (each a Secondary Term) in accordance with the procedure set out in Section 5.1.

ARTICLE V **CONTRACT PRICE**

Section 5.1 Contract Price. The Contract Price during the primary sales term for the period July 1, 1999 through June 30, 2002, shall be determined monthly by the aggregate of (i) a Commodity Price component equal to the per MMBTU Price for NYMEX natural gas futures contract month's close as published in the Wall Street Journal, (ii) both of the Tennessee Gas Pipeline and East Tennessee Gas Pipeline Firm transportation fee(s) and retainages, and (iii) aggregate of the Titan Redelivery Fees: (a) The B&W Pipeline System monthly volume proration and allocation from all receipt points where gas enters the B&W Pipeline prorated to equal all delivery sales points where gas is delivered out of the B&W Pipeline. This percentage changes monthly. (b) 7% retainage of the net volume as calculated above in (1). (c) \$.60 per MMBtu for all gas volumes delivered at buyer's delivery meter, and (iv) applicable taxes and other governmental charges. The Contract Price for any Secondary Sales Term shall be determined as follows:

(a) Not later than ninety (90) days prior to the expiration of the Primary Sales Term or any Secondary Sales Term, the Buyer shall provide Gasco notice by Facsimile of the MDQ, not to exceed eighty (80) MMBtu, that Buyer will require for the Plant during the following Secondary Sales Term ("Buyer's MDQ Notice"). If Buyer fails to give a Buyer's MDQ Notice, the Sales Term of this Agreement shall terminate at the expiration of the Primary Sales Term or then existing Secondary Sales Term.

(b) Not later than sixty (60) days prior to the expiration of the Primary Sales Term or then existing Secondary Sales Term, based on the MDQ specified in the Buyer's MDQ Notice, Gasco shall respond to Buyer's MDQ Notice by Facsimile notifying Buyer of the Contract Price that Gasco will charge for Gas sold and delivered to the Plant during the following Secondary Term ("Gasco's Price Notice").

(c) Not later than forty-five (45) days prior to the expiration of the Primary Sales Term or then existing Secondary Sales Term, Buyer shall notify Gasco by Facsimile of Buyer's acceptance or rejection of the Contract Price specified in Gasco's Price Notice.

(d) If Buyer accepts the Contract Price specified in Gasco's Price Notice, the Sales Term of this Agreement shall continue for a Secondary Sales Term.

(e) If Buyer rejects the Contract Price specified in Gasco's Price Notice, the Sales Term of this Agreement shall terminate at the expiration of the Primary Sales Term or any then existing Secondary Sales Term.

Section 5.2 Risk Assessment. Buyer represents and warrants to Gasco that the Contract Price provisions of this Agreement are acceptable to Buyer based upon the obligations undertaken by Gasco to provide natural gas sales service and facilities, including without limitation the Gasco Line, to serve the Plant. Buyer acknowledges and agrees that Gasco may from time to time make changes to the Gasco Tariff in accordance with the laws of the State of Tennessee and the rules and regulations of the TRA, including without limitation their rates applicable to Gas Sales Service under this Agreement, and that any such changes when approved by the TRA shall be applicable to this Agreement to the extent provided for herein. Gasco agrees to provide to Buyer any proposed changes to the Gasco Tariff. Buyer shall not by virtue of such acknowledgment and agreement be precluded from participating in any regulatory proceeding involving proposed changes to the Gasco Tariff, or from protesting any such proposed changes that may adversely affect Buyer.

Section 5.3 Reimbursement for Cost of Certain Facilities. Buyer shall pay to Gasco \$10,667.00 as full reimbursement for the cost of the facilities and related expenses identified on Exhibit A hereto.

ARTICLE VI

BILLING AND PAYMENT

Section 6.1 Gasco Statements. On or before the tenth (10) day of each Month, Gasco shall issue a statement to Buyer showing the amount due for the monthly Gas sold and/or delivered during the prior Month, taxes and other governmental charges applicable to the sale of gas contemplated by this Agreement, including but not limited to any franchise fees or surcharges charged by Fentress County, Tennessee. Buyer shall pay Gasco the undisputed amount of each such statement by check on or before the later of the twenty fifth (25th) day

of the Month in which such statement is received or the twentieth (20th) day after Buyer received Gasco's statement for such Month. If the actual quantity of Gas sold and/or delivered by Gasco in a Month is different from the amount used by Gasco for billing purposes, Gasco shall adjust its billing for such Month, without interest, on its statement for the Month in which such actual quantity information becomes available to Gasco.

Section 6.2 Buyer's Statements. On or before the fifteenth (15th) day of the Month following any Month in which Gasco incurred any payment obligation to Buyer under Section 3.4, Buyer shall issue a statement to Gasco for all amounts due from Gasco on account of such obligations to Buyer. Gasco shall credit the amount of its obligation to Buyer pursuant to any Buyer statement against the next statement issued to Buyer pursuant to Section 6.1 following Gasco's receipt of any Buyer statements, and in the event that the credit so due Buyer exceeds the amount due Gasco on such statement, the remaining amount of Gasco's receipt of any Buyer statement, and in the event that the credit so due Buyer exceeds the amount due Gasco on such statement, the remaining amount of Gasco's obligations to Buyer shall be credited to Buyer on Gasco's statement for the following Month(s) until Buyer has received full credit for the amount of such obligation; provided, however, that if after crediting the amount of any such Gasco obligation to Buyer against Gasco's statement for the final Month in which Gasco sells and/or delivers Gas hereunder there remains any amount due Buyer, Gasco shall pay such remaining amount in cash to Buyer within twenty (20) days after such amount is determined.

Section 6.3 Late Payment. If either Buyer or Gasco fails to pay the undisputed amount of any statement issued pursuant to Sections 6.1 and 6.2 when due, interest at the Interest Rate shall accrue and be payable on such unpaid amounts from the due date thereof until paid.

Section 6.4 Examination of Books and Records. Each Party shall have the right to examine the books and records of the other Party with respect to gas sold and delivered under or in connection with this Agreement, including without limitation measurement charts and allocation statements for Gas deliveries, during regular business hours after reasonable advance written notice. Each Party agrees to retain and preserve all of its books and records With respect to operations under this Agreement for a period of one (1) year following the date any such information was created by the Party or received by it from East Tennessee Natural Gas Pipeline Company or any third party.

Section 6.5 Correction of Errors. In the event that either Party determines that there is an error in the amount billed in any statement rendered by it or received by it from the other Party, the error shall be adjusted by the Party whose statement contained such error within thirty (30) days after the determination that such error has occurred, by statement submitted by the Party in error (in the next billing cycle if this Agreement remains in effect); provided, however, that any claim by a Party for an error by the other Party shall be submitted within sixty (60) days after the discovery of such error. If the error resulted in an overpayment, interest at the Interest Rate shall be due on the overpayment from the date thereof until such overpayment has been credited or refunded to the overpaying Party, and likewise if an error

resulted in an underpayment, interest at the Interest Rate shall be due on the underpayment from the due date thereof until such underpayment has been credited or paid to the underpaid Party.

Section 6.6 Resolution of Billing Disputes. The Party disputing any statement, or any portion of any statement, issued by the other Party shall, on or before the due date of such statement, give notice to the Party issuing the statement of the nature and extent of the dispute. The Parties shall endeavor in good faith to resolve any such dispute within thirty (30) days after the due date of the disputed statement. If no resolution is reached during such period, either Party may bring an action against the other on such dispute, and the Party that prevails in such litigation shall be entitled to recover its reasonable attorneys fees and costs with respect to such litigation from the other Party. Any disputed amounts determined to in fact be due the Party issuing the statement therefor shall bear interest at the Interest Rate from the original due date until credited or paid to the Party to which such amounts are owed.

ARTICLE VII

FORCE MAJEURE

Section 7.1 Events of Force Majeure. An "Event of Force Majeure" is an act of God; an act of governmental authority, or necessity for compliance with any court order, law, statute, ordinance or regulation promulgated by a governmental authority having jurisdiction; a strike, lockout or other industrial disturbance; an act of the public enemy, sabotage, war, insurrection or blockade; riot or other civil disturbance; epidemic; explosions, fires, floods, storms and other unusually severe weather; breakage or other accident or failure of pipelines; freezing of gas wells or lines of pipe; an arrest and restraint of rulers and peoples; and any other similar event that affects and prevents the performance of a Party's obligations hereunder in whole or in part, is not reasonably within the control of such Party and which by the exercise of due diligence such Party is unable to prevent or overcome. With respect to Buyer, breakage or accident to the Plant, to the extent such event precludes or limits the operation of the Plant or the use of Gas thereat is an Event of Force Majeure. With respect to both Parties, an event defined as an event of Force Majeure in the Gasco Tariff, or any of Gasco's Transporters that prevents Buyer from receiving at the Plant all or some part of the Gas Nominated hereunder, is to the extent of such preclusion an Event of Force Majeure.

Section 7.2 Effect of Force Majeure. If either Party is rendered wholly or partially unable to perform its obligations (other than incurred obligations to make payments) under this Agreement because of an Event of Force Majeure shall be suspended to the extent so affected during the continuation of such inability to perform; provided, however, (i) the non-performing Party, as soon as reasonably practicable after learning of its inability to perform due to an Event of Force Majeure, shall provide notice to the other Party giving the particulars of the occurrence, including an estimate of its expected duration and probable impact on the performance of its obligations under this Agreement, and shall continue to furnish timely regular reports with respect thereto during the continuance of the effect of the Event of Force Majeure; (ii) the non-performing Party shall exercise reasonable efforts to

continue to perform its obligations under this Agreement and to remedy its inability to perform those obligations; (iii) the non-performing Party shall provide the other Party with prompt notice of the cessation of the effect of the Event of Force Majeure giving rise to the suspension of performance; (iv) no obligation of either Party that was to be performed prior to the occurrence of the Event of Force Majeure shall be suspended as a result of that occurrence.

Section 7.3 Settlement of Strikes, Lockouts and Other Labor Disputes. Nothing in this Article VIII shall require the settlement of any strike, walkout, lockout or other labor dispute on terms that, in the sole judgment of the Party involved in the dispute, are contrary to the Party's interest. It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be entirely within the discretion of the Party having the difficulty.

ARTICLE VIII **CONFIDENTIALITY**

Section 8.1 Confidentiality. The Parties acknowledge and agree that this Agreement and all data created or compiled by either of them with respect hereto constitute commercially sensitive information. Therefore, each Party agrees that it will not, without the written consent of the other Party, disclose to any third party this Agreement or the terms and provisions hereof or any data created or compiled by such Party with respect to this Agreement except to the extent that disclosure is required (i) by law or by court or governmental body having jurisdiction over the disclosing party, (ii) to obtain or in connection with transportation of Gas sold and delivered hereunder, (iii) to obtain any regulatory authorization required for the construction and operation of the Gasco Line, or (iv) in the course of an audit of the disclosing Party; provided, however, that upon learning that disclosure is required by law or by court or governmental body, the Party required to make such disclosure shall immediately notify the other Party and take all reasonable steps requested by such other Party to limit the extent of such disclosure.

ARTICLE IX **LAWS AND REGULATORY BODIES**

Section 9.1 Laws and Regulatory Bodies. This Agreement and the rights and obligations of the Parties hereunder are subject to all applicable present and future laws, rules, regulations, acts, restraints and orders of any legislative, regulatory or judicial body or other duly constituted authority having jurisdiction over Gasco or Buyer.

Section 9.2 Agreement as Rate Schedule. This Agreement shall be deemed the Rate Schedule to the Gasco Tariff applicable to the Sales Service to be provided by Gasco to Buyer hereunder. The terms and provisions of the Gasco Tariff, to the extent not inconsistent with this Agreement, shall be applicable to such Sales Service. Gasco shall not be entitled to change any of

the terms and provisions of this Agreement through proceedings initiated by Gasco at the TRA.

ARTICLE X

REPRESENTATIONS AND WARRANTIES

Section 10.1 Representations and Warranties of Buyer. Buyer represents and warrants to Gasco as follows:

(a) Buyer is a Corporation duly organized and in good standing under the laws of the State of Tennessee. Buyer has all requisite power and authority to enter into and perform this Agreement.

(b) The execution and delivery of this Agreement and the transactions contemplated hereby have been duly authorized by Buyer. This Agreement constitutes a legal, valid and binding obligation of Buyer enforceable against it in accordance with its terms, provisions and conditions, subject, however, to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditor's rights generally and except as the enforceability thereof may be limited by applicable general principles of equity (regardless of whether considered in a proceeding in equity or at law).

(c) The execution, delivery and performance by Buyer of this Agreement and the transactions contemplated hereby do not (i) violate, constitute a default under or conflict with any provision of Buyer's articles of incorporation, by-laws or similar instruments, (ii) violate or constitute a default under any agreement to which Buyer is a party or by which it is bound, which violation or default will have a material and adverse effect on Buyer's ability to perform its obligations hereunder, (iii) violate any existing statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority applicable to Buyer, which violation will have a material and adverse effect on its ability to perform its obligations hereunder, or (iv) under existing law require any consent, approval or authorization of, or designation, declaration or filing with, any governmental authority on the part of Buyer, except such authorizations or filings as Buyer's performance under this Agreement may require in the ordinary course of business.

(d) There are no suits, judicial or administrative actions, proceedings or investigations (including without limitation bankruptcy, reorganization or insolvency actions) pending or, to Buyer's knowledge, threatened that (i) challenge the validity of this Agreement or the transactions contemplated hereby, (ii) seek to restrain or prevent any action taken or to be taken by Gasco in connection with this Agreement, or (iii) if adversely determined, would have a material and adverse effect on Buyer's ability to perform its obligations under this Agreement.

Section 10.2 Representations and Warranties of Gasco. Gasco represents and warrants to Buyer as follows:

(a) Gasco is a corporation duly organized, validly existing and in good standing under the laws of the State of Ohio, and duly authorized to do business in the State of Tennessee. Gasco has all requisite power and authority to enter into and perform its obligations under this Agreement.

(b) The execution and delivery of this Agreement has been duly authorized by Gasco and this Agreement constitutes a legal, valid and binding obligation of Gasco, enforceable against it in accordance with its terms, provisions and conditions, subject, however, to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and except as the enforceability thereof may be limited by applicable general principles of equity (regardless of whether considered in a proceeding in equity or at law).

(c) The execution, delivery and performance by Gasco of this Agreement and the transactions contemplated hereby do not (i) violate, constitute a default under or conflict with any provision of Gasco's charter, articles of incorporation, by-laws or similar instruments, (ii) violate or constitute a default under any agreement to which Gasco is a party or by which it is bound, which violation or default will have a material and adverse effect on Gasco's ability to perform its obligations hereunder, or (iii) under existing law require any consent, approval or authorization of, or designation, declaration or filing with, any governmental authority on the part of Gasco, except such authorizations and contemplated future filings provided for in Section 2.1 hereof and as Gasco's performance under this Agreement may require in the ordinary course of business,

(d) There are no suits, judicial or administrative actions, proceedings or investigations (including without limitation bankruptcy, reorganization or insolvency actions) pending or, to Gasco's knowledge, threatened that (i) challenge the validity of this Agreement or the transactions contemplated hereby, (ii) seek to restrain or prevent any action taken or to be taken by Gasco in connection with this Agreement, or (iii) if adversely determined, would have a material and adverse effect on Gasco's ability to perform its obligations under this Agreement.

ARTICLE XI

DEFAULT AND REMEDIES

Section 11.1 Event of Default. An Event of Default under this Agreement shall be deemed to exist upon the occurrence of one or more of the following events:

(a) Failure of either Party to timely perform or satisfy fully any material obligation to be performed or satisfied by it.

(b) If either Party (i) is dissolved (other than pursuant to a consolidation or merger), (ii) becomes insolvent or is unable to pay its debts as they become due or admits in

writing its inability generally to pay its debts as they become due, (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors, (iv) institutes or has instituted against it a proceeding seeking judgment of insolvency, or bankruptcy or any other relief under bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for its winding up or liquidation or (B) is not dismissed, discharged, stayed or restrained, in each case within thirty (30) days of the institution or presentation thereof, (v) has a resolution passed for its winding up, official management or liquidation (other than pursuant to a merger or consolidation), (vi) seeks to become subject to the appointment of a receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets, (vii) has a secured party taken possession of all or substantially all of its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within thirty (30) days thereafter, (viii) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) to (vii) inclusive, or (ix) takes any action in furtherance of or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

Section 11.2 Remedies for Default. If an Event of Default occurs, in addition to such remedies as are available to it in law or equity, the non-defaulting Party shall have the right to terminate this Agreement upon thirty (30) days notice to the defaulting Party, provided that if the defaulting Party cures such Event of Default before the expiration of such notice period, this Agreement shall not terminate pursuant to such termination notice, and provided further that Buyer's rights against Gasco for failure to sell and/or deliver Nominated quantities of gas hereunder shall be solely those set out in Sections 3.4 and Gasco's rights against Buyer for failure to take Nominated quantities of Gas hereunder shall be solely those set out in Section 3.5.

ARTICLE XII

NOTICES

Section 12.1 Notices Every notice provided for in this Agreement shall be in writing directed to the Party to whom given at such Party's address as follows:

Gasco:	Gasco Distribution Systems, Inc.
Attention:	Kenneth D. Magyar
	4435 East Pike
	Zanesville, Ohio 43701
Telephone:	(740) 454-6198
Facsimile:	(740) 454-7780

Wire Transfer Info:
In favor of Gasco Distribution Systems, Inc.
Account Number 30049520
The First National Bank
ABA Number 044101169

Buyer: Estate of Bruno Gernt, Inc.
Attention: Edward N. Wiley V
1905 Michigan Avenue
P.O. Box 69
Allardt, TN 38504

Telephone: (931) 879-8517
Facsimile: (931) 879-7715

Any notice given under this Agreement by mail to the addressee Party at the address set out above shall be deemed received by such Party at the end of the third 3rd day after the date of mailing. If notices delivered by hand, overnight courier or telecopier, it shall be deemed to have been received by the addressee Party on the date and at the time reflected on the confirmation of its delivery.

Section 12.2 Change of Address. Either Party may change its address for notices under this Agreement by notice thereof to the other Party, such change of address to be effective on the date it is deemed to have been received in accordance with Section 12.1.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

Section 13.1 Captions. The heading used throughout this Agreement are inserted for reference purposes only and are not to be considered or taken into account in construing the terms, provisions and conditions thereof, nor to be deemed in any way to qualify, modify or explain the effect of any such term, provision or condition.

Section 13.2 Preparation. This Agreement was negotiated and prepared by both Parties, with advice of counsel to the extent deemed necessary by each Party, and was not prepared by either Party to the exclusion of the other, and accordingly, should not be construed against either Party by reason of its preparation.

Section 13.3 Choice of Law. This Agreement shall be governed by, construed in

accordance with and enforced pursuant to the laws of the State of Tennessee, excluding any conflict of laws rule which would direct the application of the law of another jurisdiction.

Section 13.4 Other Agreements. This Agreement constitutes the entire agreement among the Parties relating to the subject matter hereof, and supersedes any other agreements, written or oral, between the Parties concerning such subject matter.

Section 13.5 Assignment. Buyer shall not assign its rights in, to and under this Agreement to a third party without the express written consent of Gasco, such consent not to be unreasonably withheld or delayed; provided, however, Buyer may without consent of Gasco assign its right under the Agreement to an affiliate, with Buyer remaining liable hereunder. Gasco may assign its rights in, to and under this Agreement without consent of Buyer.

Section 13.6 Binding Effect. The terms, provisions and conditions of this Agreement, and the respective rights and obligations of the Parties, shall be binding upon, and enure to the benefit of their respective successors and permitted assigns. Nothing expressed or implied herein is intended to confer any rights on any third party with respect to this Agreement.

Section 13.7 Nonwaiver of Defaults. No waiver by either Party of any default of the other Party under this Agreement shall operate as a waiver of any future default, whether of a like or different character.

Section 13.8 Written Amendments. No modifications of the terms, provisions or conditions of this Agreement shall become effective except by written amendment executed by the Parties.

Section 13.9 Severability Should any term, provision or condition of this Agreement for any reason be declared invalid or unenforceable by final and unappealable order of any court or governmental agency having jurisdiction, such decision shall not affect the validity and enforceability of the remaining portions hereof, and the remaining portions shall remain in force and effect as if this Agreement had been executed without the invalid portion(s), so long as the economic and legal substance of the transactions contemplated hereby is not affected in a manner that is materially adverse to either Party.

Section 13.10 Survival Any term, provision or condition of this Agreement that expressly or by implication comes into or remains in force following the termination hereof shall survive such termination.

Section 13.11 Limitation of Liability Neither Party nor their directors, trustees, commissioners, agents, officers or employees will be liable to the other Party, its directors, trustees, commissioners, agents, officers, or employees, whether as a result of breach of Contract, breach of warranty, tort liability (including both negligence and strict liability), strict liability or otherwise, for any incidental, special, indirect or consequential damages whatsoever, including without limitation loss of profits or revenue, or any nature connected

with or resulting from non-performance of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by the duly authorized officer or representatives as of the day and year first above written.

Attest:

Prunaj L King
Secretary

GASCO DISTRIBUTION SYSTEMS, INC.

By: KD Magyar
Name: KENNETH D. MAGYAR
Title: VP. MKTG.

Attest:

Sharon B Davis
Secretary

ESTATE OF BRUNO GERNT, INC.

By: Edward N. Wiley IV
Name: Edward N. Wiley IV
Title: President

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EXHIBIT "A"

June 4, 1999

Mr. Edward N. Wiley V
Allardt Land Company, Inc.
1905 Michigan Ave.
P.O. Box 69
Allardt, TN 38504

RE: Gas Service Cost Estimate

Dear Ed:

Charlie Hercher has estimated the following costs to extend gas service to your new wood drying kiln facility.

<u>Qty</u>	<u>Description</u>	
1	2M175-CD Roots Gas Meter	\$919.05
1	2" Flange set	65.00
1	2" Y-type strainer	87.00
1	Equimeter pressure and temperature instrument	1,450.00
1	2" Monitor set package	670.00
2450'	Pipeline installation	3,500.00
1778'	2" PE @ \$.50/ft.	889.00
400'	2" PE @ \$.50/ft.	200.00
250'	3/4" PE @ \$.21/ft.	52.50
2450'	Tracervire and tape	220.50
3	Valves	980.00
1	1" Bypass with gauges	733.95
	Labor for prefab M&R set, test, paint and welding	<u>900.00</u>
		\$10,667.00

We will need the estimate cost of \$10,667.00 prior to the commencement of construction.

If you have any questions, please call.

Very truly yours,



Kenneth D. Magyar
Vice President, Marketing

KDM/ck

xc: Charles Hercher

ken@utwiley.6.4.99